



INTERIOR BOARD OF INDIAN APPEALS

Navajo Nation v. Deputy Assistant Secretary - Indian Affairs (Operations)

15 IBIA 81 (01/07/1987)

Related Board case:

15 IBIA 179

See:

Hopi Tribe v. Navajo Nation, Nos. 92-16488, 92-16510, 92-16839, and 92-16840
(9th Cir. Jan. 30, 1995)



United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS
INTERIOR BOARD OF INDIAN APPEALS
4015 WILSON BOULEVARD
ARLINGTON, VA 22203

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|------------------------------|---|--------------------------------------|
| NAVAJO NATION, | : | Order Denying Motion to Require Bond |
| Appellant | : | |
| | : | |
| v. | : | |
| | : | Docket No. IBIA 86-24-A |
| DEPUTY ASSISTANT SECRETARY-- | : | |
| INDIAN AFFAIRS, | : | |
| Appellee | : | January 7, 1987 |

On December 5, 1986, the Board of Indian Appeals received a motion from the Hopi Tribe requesting that the Navajo Nation (appellant) be required to post a bond pending appeal in the amount of \$989,971.50. This is the amount which the Acting Deputy Assistant Secretary-- Indian Affairs, in the decision now on appeal before the Board, determined was owed by appellant to the Hopi Tribe for homesite and farming uses of Hopi partitioned land between January 1, 1978, and December 31, 1984.

Appellant's response to the Hopi Tribe's motion was received by the Board on January 5, 1987.

43 CFR 4.332(d) provides: "At any time during the pendency of an appeal, an appropriate bond may be required to protect the interest of any Indian, Indian tribe, or other parties involved." The determination whether to require a bond is within the discretion of the Board.

The Hopi Tribe does not allege that appellant will fail to pay the amount determined to be owed upon final resolution of the issue now before the Board. It expresses concern, however, that appellant has delayed the payment by prosecution of this appeal. The Board has no reason to doubt that appellant will pay the amount it is ultimately determined to owe the Hopi Tribe. To require a bond would not secure payment any sooner.

The Hopi Tribe does not explain why it now considers a bond necessary to protect its interest when it apparently has not considered one necessary during the year this appeal has been pending before the Board. Although this case has had an unusually long briefing period because of extensions granted to all parties, it is now fully briefed and ripe for decision.

The Board declines to require a bond at this late stage in the proceedings. The Hopi Tribe's motion to require appellant to post a bond pending appeal is therefore denied.

//original signed

Anita Vogt
Administrative Judge

//original signed

Kathryn A. Lynn
Acting Chief Administrative Judge